

Status: Point in time view as at 21/02/2009.

Changes to legislation: Proceeds of Crime Act 2002, Part 2 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10

TAX

PART 2

PROVISIONS RELATING TO PART 5

INTRODUCTORY

- 2 (1) The vesting of property in the trustee for civil recovery or any other person by a recovery order or in pursuance of an order under section 276 is referred to as a Part 5 transfer.
- (2) The person who holds the property immediately before the vesting is referred to as the transferor; and the person in whom the property is vested is referred to as the transferee.
- (3) Any amount paid in respect of the transfer by the trustee for civil recovery, or another, to a person who holds the property immediately before the vesting is referred to (in relation to that person) as a compensating payment.
- (4) If the recovery order provides or (as the case may be) the terms on which the order under section 276 is made provide for the creation of any interest in favour of a person who holds the property immediately before the vesting, he is to be treated instead as receiving (in addition to any payment referred to in sub-paragraph (3)) a compensating payment of an amount equal to the value of the interest.
- (5) Where the property belongs to joint tenants immediately before the vesting and a compensating payment is made to one or more (but not both or all) of the joint tenants, this Part has effect separately in relation to each joint tenant.
- (6) Expressions used in this paragraph have the same meaning as in Part 5 of this Act.
- (7) “The Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (c. 1), and “the Allowances Act 2001” means the Capital Allowances Act 2001 (c. 2)^{F1}, and “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005].
- (8) This paragraph applies for the purposes of this Part.

Textual Amendments

- F1** Words in Sch. 10 para. 2(7) inserted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(2) (with Sch. 2)

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Commencement Information

- I1** Sch. 10 para. 2 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

CAPITAL GAINS TAX

- 3 (1) If a gain attributable to a Part 5 transfer accrues to the transferor, it is not a chargeable gain.
- (2) But if a compensating payment is made to the transferor—
- sub-paragraph (1) does not apply, and
 - the consideration for the transfer is the amount of the compensating payment.
- (3) If a gain attributable to the forfeiture under section 298 of property consisting of—
- notes or coins in any currency other than sterling,
 - anything mentioned in section 289(6)(b) to (d), if expressed in any currency other than sterling, or
 - bearer bonds or bearer shares,
- accrues to the person who holds the property immediately before the forfeiture, it is not a chargeable gain.
- (4) This paragraph has effect as if it were included in Chapter 1 of Part 2 of the Taxation of Chargeable Gains Act 1992 (c. 12).

Commencement Information

- I2** Sch. 10 para. 3 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

INCOME TAX AND CORPORATION TAX

Accrued income scheme

- 4 If a Part 5 transfer is a transfer of securities within the meaning of [F2Chapter 2 of Part 12 of the Income Tax Act 2007, that Part does not apply to the transfer].

Textual Amendments

- F2** Words in Sch. 10 para. 4 substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 424 (with Sch. 2)

Commencement Information

- I3** Sch. 10 para. 4 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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Discounted securities

- 5 In the case of a Part 5 transfer of property consisting of a [^{F3}deeply] discounted security (within the meaning of [^{F4}Chapter 8 of Part 4 of ITTOIA 2005]), it is not to be treated as a transfer for the purposes of [^{F4}that Chapter].

Textual Amendments

- F3** Word in Sch. 10 para. 5 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(3\)\(a\)](#) (with Sch. 2)
- F4** Words in Sch. 10 para. 5 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(3\)\(b\)](#) (with Sch. 2)

Commencement Information

- I4** Sch. 10 para. 5 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

Rights to receive amounts stated in certificates of deposit etc.

- 6 In the case of a Part 5 transfer of property consisting of a right to which section 56(2) of the Taxes Act 1988 applies, or a right mentioned in section 56A(1) of that Act, (rights stated in certificates of deposit etc.) [^{F5}, or a right falling within the definition of “deposit rights” in section 552(1) of ITTOIA 2005] it is not to be treated as a disposal of the right for the purposes of section 56(2) [^{F6}of the Taxes Act 1988 or Chapter 11 of Part 4 of ITTOIA 2005].

Textual Amendments

- F5** Words in Sch. 10 para. 6 inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(4\)\(a\)](#) (with Sch. 2)
- F6** Words in Sch. 10 para. 6 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(4\)\(b\)](#) (with Sch. 2)

Commencement Information

- I5** Sch. 10 para. 6 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

Non-qualifying offshore funds

- 7 In the case of a Part 5 transfer of property consisting of an asset mentioned in section 757(1)(a) or (b) of the Taxes Act 1988 (interests in non-qualifying offshore funds etc.), it is not to be treated as a disposal for the purposes of that section.

Commencement Information

- I6** [Sch. 10 para. 7](#) in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

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Futures and options

- 8 In the case of a Part 5 transfer of property consisting of futures or options (within the meaning of [^{F7}section 562 of ITTOIA 2005]), it is not to be treated as a disposal of the futures or options for the purposes of [^{F8}Chapter 12 of Part 4 of that Act].

Textual Amendments

- F7** Words in Sch. 10 para. 8 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(5\)\(a\)](#) (with Sch. 2)
- F8** Words in Sch. 10 para. 8 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(5\)\(b\)](#) (with Sch. 2)

Commencement Information

- I7** Sch. 10 para. 8 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

Loan relationships

- 9 (1) Sub-paragraph (2) applies if, apart from this paragraph, a Part 5 transfer would be a related transaction for the purposes of section 84 of the Finance Act 1996 (c. 8) (debts and credits brought into account for the purpose of taxing loan relationships under Chapter 2 of Part 4 of that Act).
- (2) The Part 5 transfer is to be disregarded for the purposes of that Chapter, except for the purpose of identifying any person in whose case any debit or credit not relating to the transaction is to be brought into account.

Commencement Information

- I8** [Sch. 10 para. 9](#) in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

Exception from paragraphs 4 to 9

- 10 Paragraphs 4 to 9 do not apply if a compensating payment is made to the transferor.

Commencement Information

- I9** [Sch. 10 para. 10](#) in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

Trading stock

- 11 (1) Sub-paragraph (2) applies, in the case of a Part 5 transfer of property consisting of the trading stock of a trade, for the purpose of computing any profits of the trade for tax purposes.
- (2) If, because of the transfer, the trading stock is to be treated for that purpose as if it had been sold in the course of the trade, the amount realised on the sale is to be treated for that purpose as equal to its acquisition cost.

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- (3) Sub-paragraph (2) has effect in spite of anything in section 100 of the Taxes Act 1988 [^{F9}or section 173 of ITTOIA 2005] (valuation of trading stock at discontinuance [^{F9}or cessation]).
- (4) In this paragraph, trading stock and trade have the same meaning as in [^{F10}section 100 of the Taxes Act 1988 or (as the case may be) section 174 of ITTOIA 2005].

Textual Amendments

- F9** Words in Sch. 10 para. 11(3) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(6\)\(a\)](#) (with Sch. 2)
- F10** Words in Sch. 10 para. 11(4) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 583\(6\)\(b\)](#) (with Sch. 2)

Commencement Information

- I10** Sch. 10 para. 11 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

CAPITAL ALLOWANCES

Plant and machinery

- 12 (1) If there is a Part 5 transfer of plant or machinery, Part 2 of the Allowances Act 2001 is to have effect as if a transferor who has incurred qualifying expenditure were required to bring the disposal value of the plant or machinery into account in accordance with section 61 of that Act for the chargeable period in which the transfer occurs.
- (2) But the Part 5 transfer is not to be treated as a disposal event for the purposes of Part 2 of that Act other than by virtue of sub-paragraph (1).

Commencement Information

- I11** Sch. 10 para. 12 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

- 13 (1) If a compensating payment is made to the transferor, the disposal value to be brought into account is the amount of the payment.
- (2) Otherwise, the disposal value to be brought into account is the amount which would give rise neither to a balancing allowance nor to a balancing charge.

Commencement Information

- I12** Sch. 10 para. 13 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

- 14 (1) Paragraph 13(2) does not apply if the qualifying expenditure has been allocated to the main pool or a class pool.

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- (2) Instead, the disposal value to be brought into account is the notional written-down value of the qualifying expenditure incurred by the transferor on the provision of the plant or machinery.
- (3) The notional written-down value is—

QE-A

where—

QE is the qualifying expenditure incurred by the transferor on the provision of the plant or machinery,

A is the total of all allowances which could have been made to the transferor in respect of the expenditure if—

- (a) that expenditure had been the only expenditure that had ever been taken into account in determining his available qualifying expenditure, and
 - (b) all allowances had been made in full.
- (4) But if—
- (a) the Part 5 transfer of the plant or machinery occurs in the same chargeable period as that in which the qualifying expenditure is incurred, and
 - (b) a first-year allowance is made in respect of an amount of the expenditure, the disposal value to be brought into account is that which is equal to the balance left after deducting the first year allowance.

Commencement Information

I13 Sch. 10 para. 14 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

- 15 (1) Paragraph 13 does not apply if—
- (a) a qualifying activity is carried on in partnership,
 - (b) the Part 5 transfer is a transfer of plant or machinery which is partnership property, and
 - (c) compensating payments are made to one or more, but not both or all, of the partners.
- (2) Instead, the disposal value to be brought into account is the sum of—
- (a) any compensating payments made to any of the partners, and
 - (b) in the case of each partner to whom a compensating payment has not been made, his share of the tax-neutral amount.
- (3) A partner's share of the tax-neutral amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the Part 5 transfer.

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Commencement Information

I14 Sch. 10 para. 15 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 16 (1) Paragraph 13 does not apply if—
- (a) a qualifying activity is carried on in partnership,
 - (b) the Part 5 transfer is a transfer of plant or machinery which is not partnership property but is owned by two or more of the partners (“the owners”),
 - (c) the plant or machinery is used for the purposes of the qualifying activity, and
 - (d) compensating payments are made to one or more, but not both or all, of the owners.
- (2) Instead, the disposal value to be brought into account is the sum of—
- (a) any compensating payments made to any of the owners, and
 - (b) in the case of each owner to whom a compensating payment has not been made, his share of the tax-neutral amount.
- (3) An owner’s share of the tax-neutral amount is to be determined in proportion to the value of his interest in the plant or machinery.

Commencement Information

I15 Sch. 10 para. 16 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 17 (1) Paragraphs 12 to 16 have effect as if they were included in section 61 of the Allowances Act 2001.
- (2) In paragraphs 15 and 16, the tax-neutral amount is the amount that would be brought into account as the disposal value under paragraph 13(2) or (as the case may be) 14 if the provision in question were not disapplied.

Commencement Information

I16 Sch. 10 para. 17 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

Industrial buildings

^{F11}18

Textual Amendments

F11 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I17 Sch. 10 para. 18 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

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F1119

Textual Amendments

F11 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I18 Sch. 10 para. 19 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

F1120

Textual Amendments

F11 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I19 Sch. 10 para. 20 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

F1121

Textual Amendments

F11 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I20 Sch. 10 para. 21 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

Flat conversion

- 22 (1) If there is a Part 5 transfer of a relevant interest in a flat, Part 4A of the Allowances Act 2001 is to have effect as if the transfer were a balancing event within section 393N of that Act.
- (2) But the Part 5 transfer is not to be treated as a balancing event for the purposes of Part 4A of that Act other than by virtue of sub-paragraph (1).

Commencement Information

I21 Sch. 10 para. 22 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 23 (1) If a compensating payment is made to the transferor, the proceeds from the balancing event are the amount of the payment.

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- (2) Otherwise, the proceeds from the balancing event are the amount which is equal to the residue of qualifying expenditure immediately before the transfer.

Commencement Information

I22 Sch. 10 para. 23 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 24 (1) Paragraph 23 does not apply to determine the proceeds from the balancing event if—
- (a) the relevant interest in the flat is partnership property, and
 - (b) compensating payments are made to one or more, but not both or all, of the partners.
- (2) Instead, the proceeds from the balancing event are the sum of—
- (a) any compensating payments made to any of the partners, and
 - (b) in the case of each partner to whom a compensating payment has not been made, his share of the amount which is equal to the residue of qualifying expenditure immediately before the transfer.
- (3) A partner's share of that amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the transfer.

Commencement Information

I23 Sch. 10 para. 24 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 25 Paragraphs 22 to 24 have effect as if they were included in Part 4A of the Allowances Act 2001.

Commencement Information

I24 Sch. 10 para. 25 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

Research and development

- 26 If there is a Part 5 transfer of an asset representing qualifying expenditure incurred by a person, the disposal value he is required to bring into account under section 443(1) of the Allowances Act 2001 for any chargeable period is to be determined as follows (and not in accordance with subsection (4) of that section).

Commencement Information

I25 Sch. 10 para. 26 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 27 (1) If a compensating payment is made to the transferor, the disposal value he is required to bring into account is the amount of the payment.

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(2) Otherwise, the disposal value he is required to bring into account is nil.

Commencement Information

I26 Sch. 10 para. 27 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

28 (1) Paragraph 27 does not apply to determine the disposal value to be brought into account if—

- (a) the asset is partnership property, and
- (b) compensating payments are made to one or more, but not both or all, of the partners.

(2) Instead, the disposal value to be brought into account is equal to the sum of any compensating payments.

Commencement Information

I27 Sch. 10 para. 28 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

29 Paragraphs 26 to 28 have effect as if they were included in Part 6 of the Allowances Act 2001.

Commencement Information

I28 Sch. 10 para. 29 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

EMPLOYEE ETC. SHARE SCHEMES

Share options

30 Section 135(6) of the Taxes Act 1988 (gains by directors and employees) does not make any person chargeable to tax in respect of any gain realised by the trustee for civil recovery.

Commencement Information

I29 [Sch. 10 para. 30](#) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

Conditional acquisition of shares

31 Section 140A(4) of the Taxes Act 1988 (disposal etc. of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.

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Commencement Information

I30 Sch. 10 para. 31 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Shares acquired at an undervalue

32 Section 162(5) of the Taxes Act 1988 (employee shareholdings) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares.

Commencement Information

I31 Sch. 10 para. 32 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Shares in dependent subsidiaries

33 Section 79 of the Finance Act 1988 (c. 39) (charge on increase in value of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.

Commencement Information

I32 Sch. 10 para. 33 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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